

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4512 of 2022

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Koushal Kishore Son of Sri Satyanarayan Singh, Resident of Village-
Chaksapia, Post office-Rajaun, Police Station-Rajaun, District-Banka.

... .. Petitioner/s

Versus

1. The State of Bihar represented through Principal Secretary, Building Construction Department, Vishweshraiya Bhawan, Bailey Road, Government of Bihar, Patna.
2. The Chief Engineer, Building Construction Departemnt, Vishweshraiya Bhawan, Bailey Road, Government of Bihar, Patna.
3. The Superintending Engineer, Building Construction Department, Bhagalpur Circle, Banka Division, Banka.
4. The Executive Engineer, Building, Construction Departmetn, Bhagalpur Circle, Banka Division, Banka.
5. The Collector, Banka.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Avinash Kumar

For the Respondent/s : Mr.Uday Shankar Sharan Singh (Gp 19)

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CORAM: HONOURABLE MR. JUSTICE RAJAN GUPTA

and

HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJAN GUPTA)

2 25-04-2022 In pursuance to the directions given in CWJC No. 4416 of 2021, a speaking order dated 21.01.2022 (Annexure-12 to the present writ petition) has been passed. The claim of the petitioner regarding payment of outstanding dues has been rejected on the ground that some imperfections were there while carrying out the work. On perusal of the agreement, we find that there is Clause-23 of the agreement, which prescribes the mechanism for redressal of disputes. The relevant Clause-23 of



the agreement reads as under:-

“Clause-23:- In case any dispute or difference shall arise between the parties or of there upon any question relating to the meaning of the specifications, designs, drawings and instructions here before mentioned or as to the quality of workmanship or materials used on the work or as to the construction of any of the conditions or any clause or thing there in contains or as to any question, claim, rights of the parties, or any matter, or things whatsoever in any arising out of or relating to the contract designs drawings specifications, estimates, instruction order of these conditions or otherwise concerning the work or the execution, or failure to execute the same whether arising during the progress of the work of alter the completion or abandonment or such dispute or difference and such disputes or difference shall be referred to the Superintending Engineer of the Circle and his decision there on shall be final, conclusive and binding on the parties.”

We are of the considered view that disputed question of facts cannot be decided in a writ jurisdiction. Thus, relevant Clause needs to be invoked. Only apprehension of the petitioner is that the Adjudicator would be Superintending Engineer of the Department. We make it clear that in view of amendment in Section 12 of the Arbitration and Conciliation Act, 1996, an



independent person is required to be appointed as Arbitrator, who shall make endeavor to complete the proceedings expeditiously.

The present writ petition stands disposed of with the aforesaid observations.

(Rajan Gupta, J)

(Mohit Kumar Shah, J)

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